

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FARMERS INSURANCE EXCHANGE for
itself and as Subrogee of its insured DOREEN
FILOMENA,

Plaintiff,

vs.

LG ELECTRONICS USA, INC., *et al.*,

Defendants.

2:15-cv-01389-JCM-VCF

**ORDER AND REPORT AND
RECOMMENDATION**

Before the Court is the Motion to Deem Global Confidential Release and Agreement Fully Executed (ECF No. 106).

A. Relevant Background

All parties have reached a settlement agreement to compromise all claims that the Plaintiff, *et al.*, may now, or in the future have against Defendants, *et al.*, arising out of the incident which is the subject of this action. To finalize and memorialize the settlement, two documents were prepared, circulated, and approved by all of the parties: (1) a Global Confidential Release and Agreement ("Release"), and (2) a Stipulation and Order for Dismissal with Prejudice. All parties except Diaz have signed the Release. Best Buy is informed and believes that local company Diaz Trucking, LLC is no longer available to execute the Release and may no longer be in business. Prior counsel for Diaz has already signed the Stipulation and Order for Dismissal with Prejudice. Diaz has not signed the Release of All Claims. *Id.*

B. Relevant Law/Discussion

Pursuant to Nevada law and the general principles of contract law, a settlement contract is formed when the parties have agreed to its material terms, and not when a document is finalized by signatures. *May v. Anderson*, 121 Nev. 668, 670, 119 P.3d 1254, 1256 (2000). In December 2017, the undersigned determined that a settlement agreement between the parties, which includes all the material terms, but is

1 later unsigned is still a valid settlement agreement. The Report and Recommendation on this matter was
2 entered on December 6, 2017. (ECF No. 105).

3 The entire thrust of federal practice and procedure is predicated on three core concepts: justice,
4 speed and the inexpensive determination of every action. *See* FED. R. CIV. P. 1 (stating that the rules
5 “should be construed and administered to secure the just, speedy, and inexpensive determination of every
6 action and proceeding”). Under Local Rule IA 11-6(a), an attorney who has appeared for a party must be
7 recognized by the court and all the parties as having control of the client's case.

8 Best Buy is informed and believes that local company Diaz Trucking, LLC is no longer available
9 to execute the Release and may no longer be in business. (ECF No. 106). Best Buy states that prior
10 counsel for Diaz has already signed the Stipulation and Order for Dismissal with Prejudice. *Id.* Given that
11 Diaz Trucking, LLC does not have a signatory to execute the Settlement Agreement and Release, the court
12 deems that the Settlement Agreement and Release of Claims between all parties, fully executed, and
13 enforceable.


14 Under LR 7-2(d), the failure of an opposing party to file points and authorities in response to any
15 motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent to
16 the granting of the motion. To date, no opposition has been filed.

17 Accordingly, and for good cause shown,

18 IT IS HEREBY ORDERED that Best Buy Stores, L.P.'s Motion to Deem Global Confidential
19 Release and Agreement Fully Executed (ECF No. 106) is GRANTED.

20 IT IS RECOMMENDED that all claims against all parties be dismissed with prejudice, each side
21 bearing its costs and attorney fees.

22 DATED this 26th day of January, 2018.

23 
24 CAM FERENBACH
25 UNITED STATES MAGISTRATE JUDGE